

AMENDED IN ASSEMBLY MAY 15, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1173

Introduced by Assembly Member Olberg

February 28, 1997

An act to amend Sections 11100, 11100.1, 11103, 11106, 11107, and 11107.1 of, and to add Section 11106.5 to, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1173, as amended, Olberg. Controlled substances.

(1) Existing law provides that any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes specified chemical substances to any person in this state shall submit a report to the Department of Justice of any transaction prior to the transaction which report shall include specified identification information from the purchaser. Existing law provides that these provisions do not apply to *specified transactions involving* specified individuals or drugs, including specified manufacturers or wholesalers licensed by the California State Board of Pharmacy *who sell, transfer, or otherwise furnish specified chemical substances to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian, and specified transactions involving any drug containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,—but. Existing law provides, however, that specified transactions involving preparations in solid dosage form containing ephedrine as the*

only active medicinal ingredient are not exempt from the provisions. Failure to submit a report or to knowingly submit a false report, and a violation of the provisions on proper identification, are crimes.

This bill would specify that it is a manufacturer, wholesaler, retailer, or other person in this state who sells, transfers, or otherwise furnishes any of the list of specified chemical substances to any person or business entity in this state or any other state who is required to submit the above report. The bill would revise the definition of “proper identification” for purposes of the above provisions. The bill would provide that any manufacturer licensed by the ~~the—California~~ State Department of Health Services *who sells, transfers, or otherwise furnishes specified chemical substances to the above specified healing arts practitioners or specified retail distributors* shall be exempt from the reporting requirements, and that *while specified transactions involving preparations in solid dosage form containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine as the only active medicinal ingredient are not exempt from the provisions reporting requirements, specified sales of pseudoephedrine or phenylpropanolamine are exempt from the reporting requirements.* The bill would make conforming changes to related provisions. By revising existing crimes, this bill would impose a state-mandated local program.

(2) Existing law provides that any manufacturer, wholesaler, retailer, or other person who obtains from a source outside of this state any of the chemical substances specified above shall submit a report of that transaction to the Department of Justice. A person convicted for failure to submit the report who subsequently fails to submit the report shall be punished by a fine or by imprisonment in the state prison or a county jail.

This bill would increase the punishment for the subsequent failure to submit the report by deleting the penalty option of imprisonment in a county jail. By requiring a violation to be prosecuted always as a felony, this bill would impose a state-mandated local program.

(3) Existing law provides that the theft or loss of any regulated chemical substance by any licensee, and any

difference between the quantity of a regulated chemical substance received and the quantity shipped, shall be reported to the Department of Justice.

This bill would refer to “permittee” instead of “licensee” and would require the reports to the Department of Justice to be in writing.

(4) Existing law provides that any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes specified chemical substances to a person in this state, or who obtains from a source outside of the state specified chemical substances shall submit an application to, and obtain a permit for the conduct of that business from, the Department of Justice. Existing law provides that an application may be denied, or a permit may be revoked or suspended, for specified reasons. Existing law further provides that selling, transferring, or otherwise furnishing or obtaining the specified chemical substances without a permit is a crime.

This bill would include as a reason to deny an application, or revoke or suspend a permit, the violation of any federal, state, or local statute, rule, or ordinance regulating the manufacture, maintenance, disposal, sale, transfer, or furnishing of the specified chemical substances. The bill would also require that, in the event of subsequent changes in ownership, management, or employment, the permittee shall notify the Department of Justice in writing within 15 calendar days of the changes. By revising the definition of an existing crime, this bill would impose a state-mandated local program.

(5) This bill would provide a procedure pursuant to which the Bureau of Narcotic Enforcement may, upon petition, issue an interim order suspending any permittee or imposing permit restrictions if there is evidence that the permittee engaged in acts or omissions constituting a violation of the Health and Safety Code or has been convicted of a crime substantially related to the permitted activity, or that permitting the permittee to operate, or to continue to operate without restrictions, would endanger the public health, safety, or welfare.

(6) Existing law provides that any manufacturer, wholesaler, retailer, or other person who sells to any person in

this state any laboratory glassware or apparatus, any chemical reagent or solvent, or any combination thereof, where the value of the goods sold exceeds \$100 and payment for the goods is by specified means, shall require proper purchaser identification and retain the bill of sale, as specified. A violation of the provisions is a misdemeanor.

This bill would revise the requirements for the sale of goods with a value exceeding \$100, provide that those requirements also apply to the purchase of goods with a value exceeding \$100, and impose similar requirements with respect to the purchase or sale of goods with a value less than or equal to \$100. By changing the definition of an existing crime, this bill would impose a state-mandated local program.

(7) Existing law provides that any manufacturer, wholesaler, retailer, or other person who sells to any person in this state any quantity of specified chemical substances shall require proper purchaser identification and retain the bill of sale, as specified. A violation of this provision is a misdemeanor.

This bill would revise the requirements for the sale of specified chemical substances, add similar requirements for the purchase of those items, and include iodine and ~~hydrochloric~~ *hydrogen chloride* gas in the list of chemical substances regulated under those provisions. By changing the definition of an existing crime, this bill would impose a state-mandated local program.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11100 of the Health and Safety
2 Code is amended to read:



1 11100. (a) Any manufacturer, wholesaler, retailer, or
2 other person in this state who sells, transfers, or otherwise
3 furnishes any of the following substances to any person or
4 business entity in this state or any other state shall submit
5 a report to the Department of Justice of all of those
6 transactions:

- 7 (1) Phenyl-2-propanone.
- 8 (2) Methylamine.
- 9 (3) Ethylamine.
- 10 (4) D-lysergic acid.
- 11 (5) Ergotamine tartrate.
- 12 (6) Diethyl malonate.
- 13 (7) Malonic acid.
- 14 (8) Ethyl malonate.
- 15 (9) Barbituric acid.
- 16 (10) Piperidine.
- 17 (11) N-acetylanthranilic acid.
- 18 (12) Pyrrolidine.
- 19 (13) Phenylacetic acid.
- 20 (14) Anthranilic acid.
- 21 (15) Morpholine.
- 22 (16) Ephedrine.
- 23 (17) Pseudoephedrine.
- 24 (18) Norpseudoephedrine.
- 25 (19) Phenylpropanolamine.
- 26 (20) Propionic anhydride.
- 27 (21) Isosafrole.
- 28 (22) Safrole.
- 29 (23) Piperonal.
- 30 (24) Thionylchloride.
- 31 (25) Benzyl cyanide.
- 32 (26) Ergonovine maleate.
- 33 (27) N-methylephedrine.
- 34 (28) N-ethylephedrine.
- 35 (29) N-methylpseudoephedrine.
- 36 (30) N-ethylpseudoephedrine.
- 37 (31) Chloroephedrine.
- 38 (32) Chloropseudoephedrine.
- 39 (33) Hydriodic acid.

1 (34) Any of the substances listed by the Department
2 of Justice in regulations promulgated pursuant to
3 subdivision (b).

4 (b) The Department of Justice may adopt rules and
5 regulations in accordance with Chapter 3.5
6 (commencing with Section 11340) of Part 1 of Division 3
7 of Title 2 of the Government Code that add substances to
8 subdivision (a) if the substance is a precursor to a
9 controlled substance and delete substances from
10 subdivision (a). However, no regulation adding or
11 deleting a substance shall have any effect beyond March
12 1 of the year following the calendar year during which the
13 regulation was adopted.

14 (c) (1) Any manufacturer, wholesaler, retailer, or
15 other person in this state, prior to selling, transferring, or
16 otherwise furnishing any substance specified in
17 subdivision (a) to any person or business entity in this
18 state or any other state, shall require (A) a letter of
19 authorization from that person or business entity that
20 includes the currently valid business license number or
21 federal Drug Enforcement Administration (DEA)
22 registration number, the address of the business, and a full
23 description of how the substance is to be used, and (B)
24 proper identification from the purchaser.

25 (2) For the purposes of this subdivision, “proper
26 identification” for in-state or out-of-state purchasers
27 includes a valid motor vehicle operator’s license or other
28 official and valid state-issued identification of the
29 purchaser, or individual representing the purchasing
30 business entity, which contains a photograph of the
31 purchaser or purchasing individual, and includes the
32 current domicile or mailing address of the purchaser or
33 purchasing individual, other than a post office box
34 number. “Proper identification” also includes the motor
35 vehicle license number of the motor vehicle used by the
36 purchaser or purchasing individual at the time of transfer
37 or the name of the common carrier and the name and
38 valid motor vehicle operator license number of the driver
39 of the common carrier, and the signature of the
40 purchaser, purchasing individual, or driver of the

1 common carrier. The person selling, transferring, or
2 otherwise furnishing any substance specified in
3 subdivision (a) shall affix his or her signature as a witness
4 to the signature and identification of the purchaser,
5 purchasing individual, or driver of the common carrier.

6 (d) Any manufacturer, wholesaler, retailer, or other
7 person in this state who sells, transfers, or otherwise
8 furnishes a substance specified in subdivision (a) to a
9 person or business entity in this state or any other state
10 shall, not less than 21 days prior to delivery of the
11 substance, submit a report of the transaction, which
12 includes the identification information specified in
13 subdivision (c), to the Department of Justice. However,
14 the Department of Justice may authorize the submission
15 of the reports on a monthly basis with respect to repeated,
16 regular transactions between the furnisher and the
17 recipient involving the same substance if the
18 Department of Justice determines that the following
19 exist:

20 (1) A pattern of regular supply of the substance exists
21 between the manufacturer, wholesaler, retailer, or other
22 person who sells, transfers, or otherwise furnishes the
23 substance and the recipient of the substance.

24 (2) The recipient has established a record of utilization
25 of the substance for lawful purposes.

26 (e) This section shall not apply to any of the following:

27 (1) Any pharmacist or other authorized person who
28 sells or furnishes a substance upon the prescription of a
29 physician, dentist, podiatrist, or veterinarian.

30 (2) Any physician, dentist, podiatrist, or veterinarian
31 who administers or furnishes a substance to his or her
32 patients.

33 (3) Any manufacturer licensed by the California State
34 Department of Health Services or wholesaler licensed by
35 the California State Board of Pharmacy who sells,
36 transfers, or otherwise furnishes a substance to a licensed
37 pharmacy, physician, dentist, podiatrist, ~~or veterinarian~~
38 *veterinarian, or retail distributor as defined in*
39 *subdivision (h), provided that the manufacturer or*

1 wholesaler submits records of any sales or transfers on a
2 monthly basis to the Department of Justice.

3 (4) ~~Any~~ (A) Except as otherwise provided in
4 subparagraphs (B) and (C), this section shall not apply to
5 any sale, transfer, furnishing, or receipt of any drug which
6 contains ephedrine, pseudoephedrine,
7 norpseudoephedrine, or phenylpropanolamine and
8 which is lawfully sold, transferred, or furnished over the
9 counter without a prescription pursuant to the federal
10 Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.)
11 or regulations adopted thereunder. ~~Preparations~~

12 (B) This section shall apply to preparations in solid
13 dosage form containing ephedrine, pseudoephedrine,
14 norpseudoephedrine, or phenylpropanolamine as the
15 only active medicinal ingredient ~~are not exempt from this~~
16 ~~section.~~

17 (C) This section shall not apply to the sale of an
18 ordinary over-the-counter pseudoephedrine or
19 phenylpropanolamine product by a retail distributor as
20 defined in subdivision (h), provided that the sale does not
21 exceed 24 grams of pseudoephedrine or 24 grams of
22 phenylpropanolamine in a single transaction.

23 (f) (1) Any person specified in subdivision (a) or (d)
24 who does not submit a report as required by that
25 subdivision or who knowingly submits a report with false
26 or fictitious information shall be punished by
27 imprisonment in a county jail not exceeding six months,
28 by a fine not exceeding five thousand dollars (\$5,000), or
29 by both the fine and imprisonment.

30 (2) Any person specified in subdivision (a) or (d) who
31 has previously been convicted of a violation of paragraph
32 (1) shall, upon a subsequent conviction thereof, be
33 punished by imprisonment in the state prison, by a fine
34 not exceeding one hundred thousand dollars (\$100,000),
35 or by both the fine and imprisonment.

36 (g) (1) It is unlawful for any manufacturer,
37 wholesaler, retailer, or other person to sell, transfer, or
38 otherwise furnish a substance specified in subdivision (a)
39 to a person under 18 years of age.

1 (2) It is unlawful for any person under 18 years of age
2 to possess a substance specified in subdivision (a).

3 (3) A violation of this subdivision is a misdemeanor.

4 (h) *For the purposes of this article, the following terms*
5 *have the following meanings:*

6 (1) *“Drug store” is any entity described in Code 5912*
7 *of the Standard Industrial Classification (SIC) Manual*
8 *published by the United States Office of Management*
9 *and Budget, 1987 edition.*

10 (2) *“General merchandise store” is any entity*
11 *described in Codes 5311 to 5399, inclusive, and Code 5499*
12 *of the Standard Industrial Classification (SIC) Manual*
13 *published by the United States Office of Management*
14 *and Budget, 1987 edition.*

15 (3) *“Grocery store” is any entity described in Code*
16 *5411 of the Standard Industrial Classification (SIC)*
17 *Manual published by the United States Office of*
18 *Management and Budget, 1987 edition.*

19 (4) *“Ordinary over-the-counter pseudoephedrine or*
20 *phenylpropanolamine product” means a product*
21 *containing pseudoephedrine or phenylpropanolamine*
22 *that is required to be reported pursuant to this article and*
23 *that is, if not a liquid, either sold in package sizes of not*
24 *more than 3.0 grams of pseudoephedrine base or 3.0*
25 *grams of phenylpropanolamine base, or is packaged in*
26 *blister packs, each blister containing not more than two*
27 *dosage units, or where the use of blister packs is*
28 *technically infeasible, is packaged in unit dose packets or*
29 *pouches; or, if a liquid, sold in package sizes of not more*
30 *than 3.0 grams of pseudoephedrine base or 3.0 grams of*
31 *phenylpropanolamine base.*

32 (5) *“Retail distributor” means a grocery store, general*
33 *merchandise store, drugstore, or other related entity, the*
34 *activities of which as a distributor of pseudoephedrine or*
35 *phenylpropanolamine products are limited exclusively to*
36 *the sale of pseudoephedrine or phenylpropanolamine*
37 *products for personal use directly to an individual*
38 *customer. “Retail distributor” includes an entity that*
39 *makes a direct sale, but does not include the parent*

1 *company of such an entity if the company is not involved*
2 *in direct sales regulated by this article.*

3 (6) “Sale for personal use” means the sale in a single
4 transaction to an individual customer for a legitimate
5 medical use of a product containing pseudoephedrine or
6 phenylpropanolamine in dosages at or below that
7 specified in paragraph (4).

8 SEC. 2. Section 11100.1 of the Health and Safety Code
9 is amended to read:

10 11100.1. (a) Any manufacturer, wholesaler, retailer,
11 or other person in this state who obtains from a source
12 outside of this state any substance specified in subdivision
13 (a) of Section 11100 shall submit a report of that
14 transaction to the Department of Justice 21 days in
15 advance of obtaining the substance. However, the
16 Department of Justice may authorize the submission of
17 reports within 72 hours after the actual physical obtaining
18 of a specified substance with respect to repeated
19 transactions between a furnisher and an obtainer
20 involving the same substance, if the Department of
21 Justice determines that the obtainer has established a
22 record of utilization of the substance for lawful purposes.
23 This section does not apply to any person whose
24 prescribing or dispensing activities are subject to the
25 reporting requirements set forth in Section 11164.

26 (b) (1) Any person specified in subdivision (a) who
27 does not submit a report as required by that subdivision
28 shall be punished by imprisonment in a county jail not
29 exceeding six months, by a fine not exceeding five
30 thousand dollars (\$5,000), or by both that fine and
31 imprisonment.

32 (2) Any person specified in subdivision (a) who has
33 been previously convicted of a violation of subdivision (a)
34 who subsequently does not submit a report as required by
35 subdivision (a) shall be punished by imprisonment in the
36 state prison, by a fine not exceeding one hundred
37 thousand dollars (\$100,000), or by both that fine and
38 imprisonment.

39 SEC. 3. Section 11103 of the Health and Safety Code
40 is amended to read:

11103. The theft or loss of any substance regulated pursuant to Section 11100 discovered by any permittee or any person regulated by the provisions of this chapter shall be reported in writing to the Department of Justice within three days after the discovery.

Any difference between the quantity of any substance regulated pursuant to Section 11100 received and the quantity shipped shall be reported in writing to the Department of Justice within three days of the receipt of actual knowledge of the discrepancy.

Any report made pursuant to this section shall also include the name of the common carrier or person who transports the substance and date of shipment of the substance.

SEC. 4. Section 11106 of the Health and Safety Code is amended to read:

11106. (a) ~~Any~~ (1) *Except as otherwise provided in paragraphs (2), (3), and (4), any* manufacturer, wholesaler, retailer, or other person in this state who sells, transfers, or otherwise furnishes any substance specified in subdivision (a) of Section 11100 to a person or business entity in this state or any other state or who obtains from a source outside of the state any substance specified in subdivision (a) of Section 11100 shall submit an application to, and obtain a permit for the conduct of that business from, the Department of Justice. ~~However, no~~

(2) *No* permit shall be required of any manufacturer, wholesaler, retailer, or other person for the sale, transfer, furnishing, or obtaining of any drug which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and which is lawfully sold, transferred, or furnished over the counter without a prescription or by a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or regulations adopted thereunder. ~~Preparations~~

(3) *Preparations* in solid dosage form containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine as the only active medicinal ingredient are not exempt from this section.

1 (4) *This section shall not apply to the sale of an*
2 *ordinary over-the-counter pseudoephedrine or*
3 *phenylpropanolamine product by a retail distributor, as*
4 *those terms are defined in subdivision (h) of Section*
5 *11100.*

6 (b) The department shall provide application forms,
7 which are to be completed under penalty of perjury, in
8 order to obtain information relating to the identity of any
9 person applying for a permit, including, but not limited
10 to, the name of the applicant, the business in which the
11 applicant is engaged, the business address of the
12 applicant, a full description of any substance to be sold,
13 transferred, or otherwise furnished or to be obtained, the
14 specific purpose for the use, sale, or transfer of those
15 substances specified in subdivision (a) of Section 11100,
16 the training, experience, or education relating to this use,
17 and any additional information requested by the
18 department relating to possible grounds for denial as set
19 forth in this section, or by applicable regulations adopted
20 by the department.

21 (c) Applicants and permittees shall authorize the
22 department, or any of its duly authorized representatives,
23 as a condition of being permitted, to make any
24 examination of the books and records of any applicant,
25 permittee, or other person, or visit and inspect the
26 business premises of any applicant or permittee during
27 normal business hours, as deemed necessary to enforce
28 this chapter.

29 (d) An application may be denied, or a permit may be
30 revoked or suspended, for reasons which include, but are
31 not limited to, the following:

32 (1) Materially falsifying an application for a permit or
33 an application for the renewal of a permit.

34 (2) Conviction of a misdemeanor or felony relating to
35 any precursor substance listed under subdivision (a) of
36 Section 11100, any misdemeanor drug-related offense, or
37 any felony under the laws of this state or the United
38 States.

1 (3) Failure to maintain effective controls against the
2 diversion of precursors to unauthorized persons or
3 entities.

4 (4) Failure to comply with this article or any
5 regulations of the department adopted thereunder.

6 (5) Failure to provide the department, or any duly
7 authorized federal or state official, with access to any
8 place for which a permit has been issued, or for which an
9 application for a permit has been submitted, in the course
10 of conducting a site investigation, inspection, or audit; or
11 failure to promptly produce for the official conducting
12 the site investigation, inspection, or audit any book,
13 record, or document requested by the official.

14 (6) Failure to provide adequate documentation of a
15 legitimate business purpose involving the applicant's or
16 permittee's use of any substance listed in subdivision (a)
17 of Section 11100.

18 (7) Commission of any act which would demonstrate
19 actual or potential unfitness to hold a permit in light of the
20 public safety and welfare, which act is substantially
21 related to the qualifications, functions, or duties of a
22 permitholder.

23 (8) Violating, or having been convicted of violating,
24 any federal, state, or local statute, rule, or ordinance
25 regulating the manufacture, maintenance, disposal, sale,
26 transfer, or furnishing of any of the controlled chemical
27 substances listed in subdivision (a) of Section 11100.

28 (e) Notwithstanding any other provision of law, an
29 investigation of an applicant's qualifications for a permit
30 may include review of his or her summary criminal
31 history information pursuant to Sections 11105 and 13300
32 of the Penal Code, including, but not limited to, records
33 of convictions, regardless of whether those convictions
34 have been expunged pursuant to Section 1204.5 of the
35 Penal Code, and any arrests pending adjudication.

36 (f) The department may retain jurisdiction of a
37 cancelled or expired permit in order to proceed with any
38 investigation or disciplinary action relating to a
39 permittee.

1 (g) The department may grant permits on forms
2 prescribed by it, which shall be effective for not more
3 than one year from the date of issuance and which shall
4 not be transferable. Applications and permits shall be
5 uniform throughout the state, on forms prescribed by the
6 department.

7 (h) Each applicant shall pay at the time of filing an
8 application for a permit a fee determined by the
9 department which shall not exceed the application
10 processing costs of the department.

11 (i) A permit granted pursuant to this article may be
12 renewed one year from the date of issuance, and annually
13 thereafter, following the timely filing of a complete
14 renewal application with all supporting documents, the
15 payment of a permit renewal fee not to exceed the
16 application processing costs of the department, and a
17 review of the application by the department.

18 (j) Selling, transferring, or otherwise furnishing or
19 obtaining any substance specified in subdivision (a) of
20 Section 11100 without a permit is a felony.

21 (k) (1) No person under 18 years of age shall be
22 eligible for a permit under this section.

23 (2) No business for which a permit has been issued
24 shall employ a person under 18 years of age in the capacity
25 of a manager, agent, or representative.

26 (l) (1) An applicant for an initial permit shall submit
27 with the application two sets of 10-print fingerprint cards
28 for each individual acting in the capacity of an owner,
29 manager, agent, or representative for the applicant.

30 (2) In the event of subsequent changes in ownership,
31 management, or employment, the permittee shall notify
32 the department in writing within 15 calendar days of the
33 changes, and shall submit two sets of 10-print fingerprint
34 cards for each individual not previously fingerprinted
35 under this section.

36 SEC. 5. Section 11106.5 is added to the Health and
37 Safety Code, to read:

38 11106.5. (a) The Bureau of Narcotic Enforcement, or
39 an administrative law judge sitting alone as provided in
40 subdivision (h), may upon petition issue an interim order

1 suspending any permittee or imposing permit
2 restrictions. The petition shall include affidavits that
3 demonstrate, to the satisfaction of the bureau, both of the
4 following:

5 (1) The permittee has engaged in acts or omissions
6 constituting a violation of this code or has been convicted
7 of a crime substantially related to the permitted activity.

8 (2) Permitting the permittee to operate, or to
9 continue to operate without restrictions, would endanger
10 the public health, safety, or welfare.

11 (b) No interim order provided for in this section shall
12 be issued without notice to the permittee, unless it
13 appears from the petition and supporting documents that
14 serious injury would result to the public before the matter
15 could be heard on notice.

16 (c) Except as provided in subdivision (b), the
17 permittee shall be given at least 15 days' notice of the
18 hearing on the petition for an interim order. The notice
19 shall include documents submitted to the bureau in
20 support of the petition. If the order was initially issued
21 without notice as provided in subdivision (b), the
22 permittee shall be entitled to a hearing on the petition
23 within 20 days of the issuance of the interim order without
24 notice. The permittee shall be given notice of the hearing
25 within two days after issuance of the initial interim order,
26 and shall receive all documents in support of the petition.
27 The failure of the bureau to provide a hearing within 20
28 days following issuance of the interim order without
29 notice, unless the permittee waives his or her right to the
30 hearing, shall result in the dissolution of the interim order
31 by operation of law.

32 (d) At the hearing on the petition for an interim order,
33 the permittee may do the following:

34 (1) Be represented by counsel.

35 (2) Have a record made of the proceedings, copies of
36 which shall be available to the permittee upon payment
37 of costs computed in accordance with the provisions for
38 transcript costs for judicial review contained in Section
39 11523 of the Government Code.

1 (3) Present affidavits and other documentary
2 evidence.

3 (4) Present oral argument.

4 (e) The bureau, or an administrative law judge sitting
5 alone as provided in subdivision (h), shall issue a decision
6 on the petition for interim order within five business days
7 following submission of the matter. The standard of proof
8 required to obtain an interim order pursuant to this
9 section shall be a preponderance of the evidence
10 standard. If the interim order was previously issued
11 without notice, the bureau shall determine whether the
12 order shall remain in effect, be dissolved, or be modified.

13 (f) The bureau shall file an accusation within 15 days
14 of the issuance of an interim order. In the case of an
15 interim order issued without notice, the time shall run
16 from the date of the order issued after the noticed
17 hearing. If the permittee files a notice of defense, the
18 hearing shall be held within 30 days of the agency's
19 receipt of the notice of defense. A decision shall be
20 rendered on the accusation no later than 30 days after
21 submission of the matter. Failure to comply with any of
22 the requirements in this subdivision shall dissolve the
23 interim order by operation of law.

24 (g) Interim orders shall be subject to judicial review
25 pursuant to Section 1094.5 of the Code of Civil Procedure
26 and shall be heard only in the superior court in and for the
27 Counties of Sacramento, San Francisco, Los Angeles, or
28 San Diego. The review of an interim order shall be limited
29 to a determination of whether the bureau abused its
30 discretion in the issuance of the interim order. Abuse of
31 discretion is established if the respondent bureau has not
32 proceeded in the manner required by law, or if the court
33 determines that the interim order is not supported by
34 substantial evidence in light of the whole record.

35 (h) The bureau may, in its sole discretion, delegate the
36 hearing on any petition for an interim order to an
37 administrative law judge in the Office of Administrative
38 Hearings. If the bureau hears the noticed petition itself,
39 an administrative law judge shall preside at the hearing,
40 rule on the admission and exclusion of evidence, and

1 advise the bureau on matters of law. The bureau shall
2 exercise all other powers relating to the conduct of the
3 hearing, but may delegate any or all of them to the
4 administrative law judge. When the petition has been
5 delegated to an administrative law judge, he or she shall
6 sit alone and exercise all of the powers of the bureau
7 relating to the conduct of the hearing. A decision issued
8 by an administrative law judge sitting alone shall be final
9 when it is filed with the bureau. If the administrative law
10 judge issues an interim order without notice, he or she
11 shall preside at the noticed hearing, unless unavailable, in
12 which case another administrative law judge may hear
13 the matter. The decision of the administrative law judge
14 sitting alone on the petition for an interim order is final,
15 subject only to judicial review in accordance with
16 subdivision (g).

17 (i) Failure to comply with an interim order issued
18 pursuant to subdivision (a) or (b) shall constitute a
19 separate cause for disciplinary action against any
20 permittee, and may be heard at, and as a part of, the
21 noticed hearing provided for in subdivision (f).
22 Allegations of noncompliance with the interim order may
23 be filed at any time prior to the rendering of a decision
24 on the accusation. Violation of the interim order is
25 established upon proof that the permittee was on notice
26 of the interim order and its terms, and that the order was
27 in effect at the time of the violation. The finding of a
28 violation of an interim order made at the hearing on the
29 accusation shall be reviewed as a part of any review of a
30 final decision of the bureau.

31 If the interim order issued by the bureau provides for
32 anything less than a complete suspension of the permittee
33 and the permittee violates the interim order prior to the
34 hearing on the accusation provided for in subdivision (f),
35 the bureau may, upon notice to the permittee and proof
36 of violation, modify or expand the interim order.

37 (j) A plea or verdict of guilty or a conviction after a
38 plea of nolo contendere is deemed to be a conviction
39 within the meaning of this section. A certified record of
40 the conviction shall be conclusive evidence of the fact

1 that the conviction occurred. The bureau may take action
2 under this section notwithstanding the fact that an appeal
3 of the conviction may be taken.

4 (k) The interim orders provided for by this section
5 shall be in addition to, and not a limitation on, the
6 authority to seek injunctive relief provided in any other
7 provision of law.

8 SEC. 6. Section 11107 of the Health and Safety Code
9 is amended to read:

10 11107. (a) Any manufacturer, wholesaler, retailer, or
11 other person in this state who purchases, or who sells to
12 any person in this state or any other state, any laboratory
13 glassware or apparatus, any chemical reagent or solvent,
14 or any combination thereof, where the value of the goods
15 sold in the transaction exceeds one hundred dollars
16 (\$100) and the payment for the goods is made in cash, by
17 personal check, cashier's check, money order, or any
18 other negotiable instrument shall do the following:

19 (1) Prepare a bill of sale which both identifies the
20 specific items and quantities purchased and the proper
21 purchaser identification information, both of which shall
22 be entered onto the bill of sale or a legible copy of the bill
23 of sale, and shall also affix on the bill of sale his or her
24 signature as witness to the purchase and identification of
25 the purchaser.

26 (2) Require proper purchaser identification for
27 in-state purchases that includes a valid motor vehicle
28 operator's license or other official and valid state-issued
29 identification of the purchaser that contains a photograph
30 of the purchaser, and includes the residential or mailing
31 address of the purchaser, other than a post office box
32 number, the motor vehicle license number of the motor
33 vehicle used by the purchaser at the time of purchase, a
34 full description of how the substance is to be used, and the
35 signature of the purchaser. Proper purchaser
36 identification for out-of-state purchases includes all of the
37 above, except the motor vehicle license number and the
38 signature of the purchaser. The out-of-state purchase
39 information shall also include the means by which the
40 purchase was delivered or provided to the purchaser and

1 the delivery address, if different from the identification
2 address provided by the purchaser.

3 (3) Retain the original bill of sale containing the
4 purchaser identification information for three years in a
5 readily presentable manner, and present the bill of sale
6 containing the purchaser identification information upon
7 demand by any law enforcement officer or authorized
8 representative of the Attorney General. A legible copy of
9 all bills of sale shall be submitted by mail to the office of
10 the Attorney General on a biweekly basis. These bills of
11 sale shall be maintained by the Office of the Attorney
12 General for a period of not less than five years.

13 (b) Any manufacturer, wholesaler, retailer, or other
14 person in this state who purchases, or sells to any person
15 in this state or any other state, any laboratory glassware
16 or apparatus, any chemical reagent or solvent, or any
17 combination thereof, where the value of the goods is less
18 than or equal to one hundred dollars (\$100), shall do the
19 following:

20 (1) Provide on the record of purchase information on
21 the source of the items purchased, the date of purchase,
22 a description of the specific items, the quantities of each
23 item purchased, and the cost of the items purchased.

24 (2) Retain the record of purchase for three years in a
25 readily presentable manner and present the record of
26 purchase upon demand to any law enforcement officer or
27 authorized representative of the Attorney General.

28 (3) All records of the sales of goods where the value is
29 less than or equal to one hundred dollars (\$100) shall be
30 kept and maintained by the seller for a period of three
31 years and shall be made available upon demand by any
32 law enforcement officer or authorized representative of
33 the Attorney General.

34 (c) All inventory of any laboratory glassware,
35 equipment, or apparatus, any chemical reagent or
36 solvent, or any combination thereof, shall be open to
37 inspection during business hours by any law enforcement
38 officer or authorized representative of the Attorney
39 General.

40 (d) A violation of this section is a misdemeanor.

1 (e) For the purposes of this section, the following
2 terms have the following meanings:

3 (1) “Laboratory glassware” includes, but is not limited
4 to, condensers, flasks, separatory funnels, and beakers.

5 (2) “Apparatus” includes, but is not limited to, heating
6 mantles, ring stands, and rheostats.

7 (3) “Chemical reagent” means a chemical that reacts
8 chemically with one or more precursors, but does not
9 become part of the finished product.

10 (4) “Chemical solvent” means a chemical that does
11 not react chemically with a precursor or reagent and does
12 not become part of the finished product. A “chemical
13 solvent” helps other chemicals mix, cools chemical
14 reactions, and cleans the finished product.

15 SEC. 7. Section 11107.1 of the Health and Safety Code
16 is amended to read:

17 11107.1. (a) Any manufacturer, wholesaler, retailer,
18 or other person in this state who sells to any person in this
19 state or any other state any quantity of sodium cyanide,
20 potassium cyanide, cyclohexanone, bromobenzene,
21 magnesium turnings, mercuric chloride, sodium metal,
22 lead acetate, paladium black, red phosphorous, iodine,
23 hydrogen chloride gas, trichlorofluoromethane
24 (fluorotrichloromethane), dichlorodifluoromethane,
25 1,1,2-trichloro-1,2,2-trifluoroethane
26 (trichlorotrifluoroethane), sodium acetate, or acetic
27 anhydride shall do the following:

28 (1) Prepare a bill of sale which both identifies the
29 specific items and quantities purchased and the proper
30 purchaser identification information, both of which shall
31 be entered onto the bill of sale or a legible copy of the bill
32 of sale, and shall also affix on the bill of sale his or her
33 signature as witness to the purchase and identification of
34 the purchaser.

35 (2) Require proper purchaser identification for
36 in-state purchases that includes a valid motor vehicle
37 operator’s license or other official and valid state-issued
38 identification of the purchaser that contains a photograph
39 of the purchaser, and includes the residential or mailing
40 address of the purchaser, other than a post office box

1 number, the motor vehicle license number of the motor
2 vehicle used by the purchaser at the time of purchase, a
3 full description of how the substance is to be used, the
4 Environmental Protection Agency certification number
5 or business resale number assigned to the individual or
6 business entity for which the individual is purchasing any
7 chlorofluorocarbon product, and the signature of the
8 purchaser. Proper purchaser identification for
9 out-of-state purchases includes all of the above, except
10 the motor vehicle license number and the signature of
11 the purchaser. The out-of-state purchase information
12 shall also include the means by which the purchase was
13 delivered or provided to the purchaser and the delivery
14 address, if different from the identification address
15 provided by the purchaser.

16 (3) Retain the original bill of sale containing the
17 purchaser identification information for three years in a
18 readily presentable manner, and present the bill of sale
19 containing the purchaser identification information upon
20 demand by any law enforcement officer or authorized
21 representative of the Attorney General. A legible copy of
22 all bills of sale shall be submitted by mail to the Office of
23 the Attorney General on a biweekly basis. These bills of
24 sale shall be maintained by the Office of the Attorney
25 General for a period of ~~no~~ *not* less than five years.

26 (b) Any manufacturer, wholesaler, retailer, or other
27 person in this state who purchases any item listed in
28 subdivision (a) of section 11107.1 shall do the following:

29 (1) Provide on the record of purchase information on
30 the source of the items purchased, the date of purchase,
31 a description of the specific items, the quantities of each
32 item purchased, and the cost of the items purchased.

33 (2) Retain the record of purchase for three years in a
34 readily presentable manner and present the record of
35 purchase upon demand to any law enforcement officer or
36 authorized representative of the Attorney General.

37 (c) All inventory of any item listed in subdivision (a)
38 of ~~section~~ *Section* 11107.1 shall be open to inspection
39 during business hours by any law enforcement officer or
40 authorized representative of the Attorney General.

1 (d) A violation of this section is a misdemeanor.

2 SEC. 8. No reimbursement is required by this act
3 pursuant to Section 6 of Article XIII B of the California
4 Constitution because the only costs that may be incurred
5 by a local agency or school district will be incurred
6 because this act creates a new crime or infraction,
7 eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section
9 17556 of the Government Code, or changes the definition
10 of a crime within the meaning of Section 6 of Article
11 XIII B of the California Constitution.

12 Notwithstanding Section 17580 of the Government
13 Code, unless otherwise specified, the provisions of this act
14 shall become operative on the same date that the act
15 takes effect pursuant to the California Constitution.

